

Nos. 22-1972, -1973, -1975, -1976

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IN THE  
**United States Court of Appeals**  
FOR THE FEDERAL CIRCUIT

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MASIMO CORPORATION,

*Appellant,*

v.

APPLE INC.,

*Appellee,*

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APPEAL FROM THE PATENT TRIAL AND APPEAL BOARD  
CASE NOS. IPR2020-01713, IPR2020-01716, IPR2020-01733, IPR2020-01737

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**MOTION TO SUSPEND REQUIREMENT TO FILE ADDENDUM  
APPELLANT MASIMO CORPORATION**

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December 12, 2022

**CERTIFICATE OF INTEREST**

Counsel for Appellant Masimo Corporation certifies the following:

1. The full name of every party represented by me is:

Masimo Corporation.

2. The name of the real party-in-interest represented by me is:

Masimo Corporation.

3. All parent corporations and any publicly held companies that own more than 10 percent or more of the stock of the party represented by me are:

Blackrock Inc.

4. The name of all law firms and the partners or associates that appeared for the party in the lower tribunal or are expected to appear for the party in this court and who are not listed on the docket for the current case:

Knobbe, Martens, Olson & Bear, LLP: William R. Zimmerman and Jacob L. Peterson.

5. The case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal:

- *Masimo Corporation v. Apple Inc.*, U.S. Court of Appeals for the Federal Circuit, Case No. 22-1631 (consolidated with Case Nos. 22-1632, 22-1633, 22-1634, 22-1635, 22-1636, 22-1637, 22-1638)

- *Masimo Corporation v. Apple Inc.*, U.S. Court of Appeals for the Federal Circuit, Case No. 22-2069 (consolidated with Case Nos. 22-2070, 22-2071, 22-2072)
- *Masimo Corporation and Cercacor Laboratories, Inc. v. Apple Inc.*, U.S. District Court for the Central District of California, Case No. 8:20-cv-00048-JVS

6. Information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees):

Not applicable.

Appellant Masimo Corporation respectfully requests the Court suspend the requirements of Federal Circuit Rule 28(a)(11)-(12). Rule 28(a)(11) requires appellant's brief include "an addendum containing the judgments orders, agency actions, or other decisions in question and any opinions, memoranda, or findings and conclusions supporting them." Rule 28(a)(12) requires "all patents in suit reproduced in their entirety as an addendum to the principal brief of a petitioner or appellant."

Federal Rule of Appellate Procedure 2 allows a court of appeals to suspend a provision for good cause "[o]n its own or [on] a party's motion." Good cause to suspend the requirements of Rule 28(a)(11)-(12) exists in this appeal. This appeal consolidates four different appeals involving four different patents. Order Consolidating Appeals, D.I. 2 (July 5, 2022). The addendum required by Rule 28(a)(11)-(12), including multiple patents and agency decisions, is nearly 800 pages and cannot be bound in a single volume. The documents will be included in the Joint Appendix in their entirety. Masimo's counsel contacted counsel for Appellee Apple Inc. to ask whether Apple will oppose, but Apple's counsel was unable to respond and indicate whether Apple will oppose prior to filing this motion.

For the reasons set forth herein, Masimo respectfully requests the Court suspend the requirements of Federal Circuit Rule 28(a)(11)-(12).

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

December 12, 2022

/s/ Jeremiah Helm

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**CERTIFICATE OF COMPLIANCE**

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2). This brief contains 211 words.
2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14 point font Times New Roman.

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 12, 2022

By: /s/ Jeremiah Helm

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